

MENDOCINO COUNTY TAX-PAYERS LAND USE COMMITTEE

IBLA 84-518

84-519

Decided May 16, 1985

Appeals from the issuance by the Clear Lake Area Manager, Ukiah, California, Bureau of Land Management, of two special recreation use permits allowing the use of federally owned portions of Cow Mountain for two off-road vehicle events. SRUP-U-45 and SRUP-U-42.

Affirmed.

1. Special Use Permits

A BLM determination to issue special recreation use permits for two off-road vehicle events on Cow Mountain is discretionary, and BLM may properly approve permit applications for such organized events where the proposed use is consistent with the objectives, responsibilities, or programs for the management of the public lands involved.

2. Administrative Procedure: Burden of Proof--Appeals--Rules of Practice: Appeals: Burden of Proof

Where a party appeals the BLM issuance of special recreation use permits, it is the obligation of appellant to show that the determinations to issue the permits are erroneous. Unless a statement of reasons shows adequate basis for appeal and the allegations are supported with evidence showing error, the appeals cannot be afforded favorable consideration.

APPEARANCES: Al Pierce, Mendocino County Tax-Payers Land Use Committee, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

The Mendocino County Tax-Payers Land Use Committee has appealed from two decisions of the Clear Lake Resource Area Manager, Ukiah District, California, Bureau of Land Management (BLM), dated April 27, 1984, issuing special recreation use permits SRUP-U-45 for the Santa Rosa 4 X 4 Rampage Rally on May 5, 1984 (appeal docketed IBLA 84-518), and SRUP-U-42 for the Ukiah Clod Dodgers Motorcycle Poker Run on May 6, 1984 (appeal docketed IBLA

84-519). 1/ The Rampage Rally, involving about 150 four-wheel drive vehicles traversing 12 miles of existing roads and trails, is essentially a caravan of vehicles traveling over a prescribed route for the purpose of riding. The Poker Run, involving a maximum of 150 entrants traversing 44 miles of existing roads and trails, is a game of chance on wheels wherein vehicles stop at control points to pick up a card with the objective of completing a poker hand before finishing the course. The best hand "wins." The routes of both events are located in an area of Cow Mountain designated as available for off-road vehicle (ORV) use in the Cow Mountain Management Framework Plan. The rationale for both decisions was that "[t]he environmental assessment for the proposed event indicates that there will be no significant unmitigable impacts." The decisions further state: "The increased vehicle use during the 2 days in an area used frequently by ORV's does not constitute significant additional impacts."

On May 3, 1984, appellant submitted a letter appealing the approval of the Rampage Rally scheduled for May 5, 1984, and the Poker Run scheduled for May 6, 1984. 2/ In the letter appellant asserted, "These events are destructive to the soil, vegetation, animal life and the watersheds of Scott Valley and the Ukiah Valley. There are 58 varieties of wildlife in the area and destruction to their habitat cannot be mitigated." Appellant further states that the Lake County Board of Supervisors voted against approval of the two applications "because of damage to the environment and noise and traffic enforcement problems for which the BLM cannot provide protection." No separate statement of reasons in support of the appeals was provided.

[1] Special use permits are issued under the general authority of the Secretary of the Interior to regulate the use of public lands, pursuant to section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1732(b) (1982). Special recreation use permit requirements are set forth in 43 CFR Subpart 8372, as amended, 49 FR 34332 (Aug. 29, 1984). 3/ See 43 CFR 8344.1 (ORV use). The applicable regulation, 43 CFR 8372.3, regarding issuance of special recreation use permits, provides: "The approval of an application and subsequent issuance of a special recreation permit is discretionary with the authorized officer."

Accordingly, BLM has the discretion to issue a special recreation use permit if the proposed use permit is consistent with BLM's objectives, responsibilities, or programs for management of the public lands involved.

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1/ The dates for holding the events have passed and the events have already taken place. Accordingly, as to these particular events, the case is moot. However, since the Poker Run has occurred annually for several years and the record reflects the Rampage Rally may become an annual event, we believe it is appropriate to address appellant's appeals as though based on recurring events.

2/ Appellant additionally requests a complete environmental impact study for the Cow Mountain Recreation Area and all adjacent affected lands prior to the expenditure of additional State and Federal money for development of the recreational area. This issue is beyond the purview of this appeal.

3/ The amended regulations provide that petitions for stay of decisions may be made to the Secretary. 49 FR 34338 (Aug. 29, 1984) at section 8372.6(b).

See Sharon Long, 83 IBLA 304 (1984); Cascade Motorcycle Club, 56 IBLA 134 (1981), and cases cited therein. Issuance of a special recreation use permit will be affirmed where the decision is supported by facts of record, in the absence of compelling reasons for modification or reversal. See California Association of Four-Wheel Drive Clubs, Inc., 38 IBLA 361 (1978); Cf. Dell K. Hatch, 34 IBLA 274 (1978).

The record supports BLM's decisions to issue these special use permits. It indicates that the areas of Cow Mountain where the events are scheduled are areas specifically designated as available for ORV use. BLM conducted an environmental assessment and determined there would be no significant unmitigable impacts. In accordance with the environmental assessment the two events were made subject to various special stipulations that "will be considered critical in the issuance of this permit and required to be complied with before bonds or deposits are released" (Special Stipulation No. 2 for both SRUP-U-45 and SRUP-U-42). Additionally, the events were conditioned upon the soil moisture levels at the time of the events. BLM's environmental assessment and permit conditions and stipulations document BLM's careful consideration of the permit requests. These documents reflect BLM's intent to manage the area to keep permanent damage from resulting. The groups sponsoring the two events were to provide all emergency medical backup, litter cleanup, and environmental repairs. Vehicles were to be routed away from areas where deer congregate, and erosion control devices were installed on hillsides, and at stream crossings. Thus, these BLM management efforts enable these ORV events to occur while remaining consistent with the objectives, responsibilities, and programs for the management of the public lands involved.

[2] Appellant has presented no evidence to show that the determinations to issue the permits were erroneous. The notices of appeal state reasons for the appeals, but the allegations are not supported with evidence showing error. Although appellant notes that the Lake County Board of Supervisors recommended against the issuance of the permits, the BLM decision considered the County Board's position and concluded that the BLM analysis and required stipulations adequately address and deal with the concerns of the County Board. We agree. Consequently, this appeal cannot be afforded favorable consideration. See Howard J. Hunt, 80 IBLA 396 (1984); United States v. Connor, 72 IBLA 254 (1983); Rocky Mountain Natural Gas Co., 55 IBLA 3 (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Gail M. Frazier  
Administrative Judge

We concur:

Franklin D. Arness  
Administrative Judge

Edward W. Stuebing  
Administrative Judge.

